

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

STUART PIVAR,

Plaintiff,

vs.

THE VAN GOGH MUSEUM,

Defendant

Civ A No. 1:21-cv-09362-LLS

DECLARATION OF BABETTE MEERDINK-SCHENAU

I, Babette Meerdink-Schenau, make the following declaration:

1. Since 2017, I have been Secretary to the Board of the Van Gogh Museum Foundation (“the Museum”). I am a Dutch lawyer. I studied law at Radboud University in Nijmegen and at the University of London. Before becoming Secretary, I worked as a lawyer at Houthoff Buruma, a Dutch law firm, at the Dutch Ministry of Economic Affairs, and at the Ministry of Health, Welfare, and Sport. As part of my duties as Secretary, I am familiar with the relationship between the Museum, the Dutch state, and the Vincent Van Gogh Foundation, the foundation to which members of Vincent Van Gogh’s family transferred their collection of his art after his death and which still owns that collection. I am also familiar with Museum’s current and former subsidiaries and the relationship between them and the Museum. Finally, I am familiar, in the course of my duties, with the Museum’s finances.

2. As my colleague Ms. Vellekoop explained in her declaration dated December 21, 2021, the Museum’s main collection is owned by the Vincent Van Gogh Foundation. That foundation is a separately incorporated, separately managed foundation from the Museum. None of the directors of the Vincent Van Gogh Foundation are directors of the Museum, and vice

versa. Of course, the two foundations work closely together, because the Museum was established, at first as a state museum and later incorporated as a foundation, in order to house the Van Gogh family's collection of their famed relative's art, which the family agreed to transfer to the Vincent Van Gogh Foundation in order to ensure the collection remained together. Nevertheless, the assets of the Vincent Van Gogh Foundation are not assets of the Museum, and the assets of the Museum are not assets of the Vincent Van Gogh Foundation.

3. When another museum wants to exhibit paintings from the main collection owned by the Vincent Van Gogh Foundation, that foundation, not the Museum, is the lender, although of course the Museum has an important role in working with the borrowing institution and arranging for the loan and the logistics. The artworks of Van Gogh that were displayed in New York in 2007/08 at the Morgan Library and Museum were lent by the Vincent Van Gogh Foundation, not the Museum.

4. I have reviewed Exhibit A to the Affirmation of Mitchell Cantor, which contains three web pages printed from the website of the Morgan Library and Museum. One of these labeled "Van Gogh The Bedroom Mini Metal Tray" and shows an image of a metal tray decorated with a reproduction of Van Gogh's painting, *The Bedroom*. I reviewed the records of the Museum and can find no connection between this product and the Museum. I am confident that there is none.

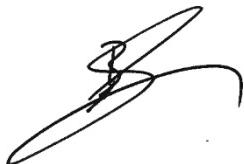
5. The other two pages show images of bags, one decorated with a reproduction of Van Gogh's *Old Vineyard with Peasant Woman and Landscape with Houses*, the other decorated with a reproduction of *Self Portrait with Straw Hat Bag*. Until quite recently, the Museum licensed its trademark, "Van Gogh Museum," to its subsidiary, VGME, B.V., which in turn sublicensed the trademark to a product manufacturer in Germany, which in turn provided the

product to the Morgan Library and Museum. I have reviewed the records of the Museum and can confirm that VGME, B.V. did sublicense the Museum's "Van Gogh Museum" trademark to the to the manufacturer of these two bags, as well as advanced digital photographs of the artworks. Of course, the Museum does not own the art itself, or the copyright in the art, and indeed, as Van Gogh died in 1890, all copyright in Van Gogh's art expired years ago, and in any event prior to the Morgan Library and Museum's 2007/08 exhibition.

6. For the sake of completeness, I note that in 2021, the Museum and its subsidiaries underwent a reorganization, and VGME, B.V. is no longer a subsidiary with separate legal existence. It was, however, a separate entity at all times relevant to this action.

7. The Museum does not, as Mr. Pivar supposes, have "a collection worth several billion dollars." The reason is that, as I and Ms. Vellekoop have explained, the Museum does not own the vast majority of the art displayed at the museum, including its main collection owned by the Vincent Van Gogh Foundation and its state-owned collection.

I declare under penalty of perjury under the laws of the United States of America that to the best of my knowledge the foregoing is true and correct. Executed on February 9, 2022.



Babette Meerdink-Schenau